

ALFRED LETCHER

IBLA 80-393

Decided August 6, 1980

Appeal from decision of the Oregon State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. 3833 (OR).

Affirmed.

1. Notice: Generally – Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated statutes and regulations.

2. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment – Mining Claims: Recordation

Under sec. 314 of the Federal Land Policy and Management Act of Oct. 21, 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2, the owner of a mining claim located before Oct. 21, 1976, must file a copy of the official record of the notice or certificate of location with the proper Bureau of Land Management Office on or before Oct. 22, 1979. These requirements are mandatory and failure to comply is deemed conclusively to constitute an abandonment of the claim by the owner and renders the claim void.

APPEARANCES: Alfred Letcher, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Alfred Letcher appeals from the January 25, 1980, decision in which the Oregon State Office, Bureau of Land Management (BLM),

declared the Hazel No. 3, Hazel No. 9, and Mint Nos. 1 through 5 placer mining claims abandoned and void pursuant to section 314(c) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744(c) (1976), and the implementing regulation, 43 CFR 3833.4.

On October 22, 1979, Letcher filed with BLM as "a notice to hold and evidence of assessment work" an affidavit of improvements made on the above claims during the assessment year ending August 31, 1979, a sketch map showing the situs of the claims in Tps. 27, 28 S., R. 46 E., Willamette meridian, Malheur County, Oregon, and a statement that the claims were located on April 11, 1973, together with a service fee of \$35 for the seven claims.

Section 314, FLPMA, 43 U.S.C. § 1744 (1976), mandates the recordation of unpatented mining claims and provides that failure to record the required instruments shall be deemed conclusively to constitute abandonment of the mining claim.

The pertinent regulations are in 43 CFR Part 3833.

3833.1-2 Manner of recordation – Federal lands.

(a) The owner of an unpatented mining claim, mill site or tunnel site located on or before October 21, 1976, on Federal lands * * * shall file (file shall mean being received and dated stamped by the proper BLM Office) on or before October 22, 1979, in the proper BLM Office, a copy of the official record of the notice or certificate of location of the claim or site filed under state law.

§ 3833.2-1 When filing required.

(a) The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in the proper BLM office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of such recording, whichever date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

§ 3833.4 Failure to file.

(a) The failure to file an instrument required by §§ 3833.1-2(a), (b), and 3833.2-1 of this title within the time periods prescribed therein, shall be deemed conclusively to constitute an abandonment of the mining claim, mill or tunnel site and it shall be void.

[1] All persons dealing with the Government are presumed to have knowledge of relevant statutes and regulations duly promulgated.

44 U.S.C. §§ 1507, 1510, (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Edwin Forsberg, 47 IBLA 235 (1980); Willene Minnier, 45 IBLA 1 (1980); Donald H. Little, 37 IBLA 1 (1978). It was thus incumbent upon appellant to comply timely with the pertinent statute and regulations.

Appellant argues that he timely submitted the information set forth on an information sheet provided by the BLM State Office, Phoenix, Arizona. He gave notice of his intent to hold the named claims, a location map, legal description of the area claimed, book and page numbers of the recorded claim notices, proper service fee, and evidence of the assessment work.

[2] Although appellant submitted the proper evidence of annual assessment work for the assessment year ending August 31, 1979, for the subject claims, he failed to submit on or before October 22, 1979, copies of the official record of the notices of location. Failure of the claimant to comply with the regulations governing the recordation of the notices of location for his mining claims must result in a conclusive finding that the claims have been abandoned. Section 314(c), FLPMA, 43 U.S.C. § 1744(c) (1976); Edwin Forsberg, *supra*. This Board has no authority to waive any of the statutory or regulatory requirements.

Appellant argues that he followed the instructions given him by a BLM information handout. The handout, styled "Questions and Answers, Recording of Mining Claims," is a single sheet printed on both sides. Among the questions and answers are these, pertinent to this situation:

Q. What documents have to be filed to properly record a claim?

A. Either a copy of the notice or certificate of location and any accompanying maps, papers, or other documents that were required to be filed initially under your particular State's law. This includes any amendments that alter the location of the claim or site.

Q. Does BLM require a special form for location notices and evidence of assessment work?

A. No, because documents filed will be copies of notices, certificates of affidavits filed in the jurisdiction where the claim or site is located, and they should contain the information listed at the end of the Questions and Answers.

Q. What do I do if my State does not require a recordation notice or certificate of location?

A. Then you must submit, in writing, all the information listed at the end of the Questions and Answers.

Oregon does require recording of the notice of location of a mining claim. Or. Rev. Stat. § 517.052 (1977). A copy of the recorded notice of location was required, under mandate of the Congress. As appellant did not submit such a document timely, the unpatented mining claim was declared abandoned and void.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur.

James L. Burski
Administrative Judge

Joseph W. Goss
Administrative Judge

